P-148-98

G. R. S. IX-5]

Previous references.

1897-98

~~191~~

(LR)

File No. 86-97

Serial Nos. 1-12

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-12

In ~~Part~~ B for Dec 1898

SUBJECT.

Appeal of Mallesiah of Sakrepatna regarding
the patel of Chakkari Kaval Krishnagalu
Taluk

Countersigned

W D 1250—GPB—30,000 - 28-1-19

Indexed

Q34

Sub

(1/2 Rs. Stamp affd. Stamps diffn.

(2) order complained of

* has not been passed

9M

23/5/98

L.R. 85-97.

P. to be withdrawn

25/5/98

Sd. (in printed form)

put up

25/5/98

P.

26-5-98

(1)

1898.

No. 2818

Name of Petitioner Krishnaiya Patel &c

Village Sadeswarapatna

Taluk Kadiri

District Kadiri

Date of Arzi 12-5-98

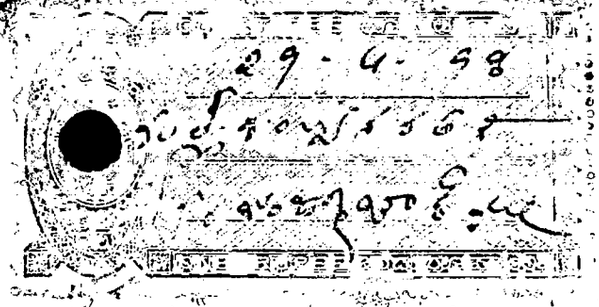
Date of Receipt 18-5-98

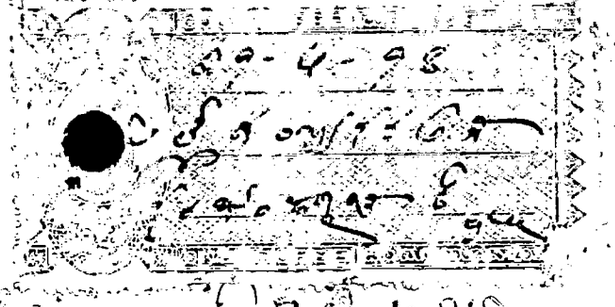
Date of Disposal

No. of Enclosure

ABSTRACT

Stating that the Sadeswarapatna village Survey Numbers Fasalies and Pate Kandi village of the Kanampalli Taluk - that Pate Kandi is irrigated by Cheruvu Kattu of Sadeswarapatna - that however part of the Fasalies of the said Survey Numbers of Sadeswarapatna - that for some the Pate Kandi lands had been taken by the village of Sadeswarapatna - that it was taken by the Government Department - that, though the Pate Kandi is irrigated from Cheruvu Kattu of Sadeswarapatna, Revenue Department is taking Fasali for Cultivation - that some





Non-Judicial stamp affixed only

MYSORE DEWAN'S OFFICE
REGD. NO. 2818.

Office
18/7/98

(2) 1898

No. 97

Name of Petitioner Mallecarjs

Village Sattiarelatnda

Taluk } Cuddr

District }

Date of Arzi 1-7-98

Date of Receipt 12-7-98

Date of Disposal

No. of Enclosure 2

2818 of 97 Registered

R 8/97

Rect
15/7/98
Subd

The Revenue Inspector complained of on 27/31 January 98 has been requested to submit his report within 17 days in the matter of the appeal which petr has not explained the reasons of the delay. Petr is returned for results of the delay

15/7/98

Sub Collr

P 15/7/98

Tahsildar 27-7-98

1) Stamp of petr
2) Order of Govt dt 17 days - Petr to explain the delay in the appeal against Revenue Inspr's order declining to appoint petr patel of Thakeri Kandi
4) Counter call

The Revenue Inspr's report dt 31/8/98 is awaited

Sub Collr 31/8/98

Call for report with regard to the representation made in the endorsement

2-7-98 Head Asst

2. 7-98
31-8-98

Rect 8/9/98

Sub Collr 8/9/98

ABSTRACT

Translation of Revenue Inspector's letter No. 1193 27/31/1/98 to the petitioner

Read petition dated 12-1-98 regarding the Patelship of Thakkeri Kandi village of Chikkanayakanahalli Taluk. As it does not appear to be reasonable to appoint you for the Patelship of the village for some reasons a separate man has been posted for the office".

In reply to Govt Sub

Encl: 2818 of 25-5-98; the petitioner submits the original order of the Asst: Commr of Kadur for fixing a Cr Jamma for Equitable assessment.

CR
14/7/98.

Encls.

(1) Govt Endt. No. 2818 of 25-5-98

(2) Kadur Asst: Commr's Endt. No. 119 of 22/31/10/98

The Commr's report has been received. The villages have been newly formed in 1888-89. In his memo of 25/11/97, Mr B L Rice states that there was no opposition with any hereditary claims to the patel & that the despatch of the petr were (1) that he was a Brahmin (2) that he was the patel of Sakrepatna which ~~(3) that he had no lands in Jakkenkaval~~ had a revenue of Rs 500 & was (3) that he had no lands in Jakkenkaval an impartial chair. It appears that Sakrepatna adjoins Jakkenkaval & that the petr was temporarily the patel of the Kaval for 5 years. R 4/1/99

x S No 36/1 & 36/4

PRIME MINISTER'S OFFICE
97 R
12-7-98

By hand rejected
11.7.98
mk

Enclosures

MYSORE PRINTING & PUBLISHING HOUSE
Regd. No. 448/C
22-8-98

Reise
25/8/98

97/98 Refer that.

Asst
26/8/98
Subel

L.R. 8-9-98

Petr explains that the delay in the presentation of his appeal to Government was due to his illness

Mag
29.8.98

(3) 1898

No. 448

Name of Petitioner Mallesa - Sabl.

Village Lakkepatna

Taluk Kasaragod

District Kasaragod

Date of Arzi 15-8-98

Date of Receipt 22-8-98

Date of Disposal

No. of Enclosure 2

ABSTRACT

With reference to Government No. 97 of 22-7-98 calling from to explain the cause of delay in the Collector's of his appeal dated the 8-7-98 from Govt No. 119 of 31-1-98 received from by Post on 8-2-98 - that he was prevented by his illness from which he was suffering incessantly, from preferring his appeal soon after - that Copy of the petn dated 15-8-98 forwarded his appeal and that the Head Asst of Collectorate having brought to his notice the petn of 12-5-98 the Copy of which was required to be furnished by him, he has now complied with the same and that the petn may be passed

RK
26/8/98

R. 25/8/98

Pet 241 P2 208 of 1898

13-9-98

(4)

LR 86-97-4

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition No. 8 dated noted in the margin received at the Dewan's Office from [illegible] Malleia of Salem petitioner in the Kadur Taluk, appealing against the order of the Deputy Commissioner of Kadur District declining to appoint petitioner Patel of Chakere Kaval

(D) Petn No. 258 dated 12-9-98
Do 97 dated 1-9-98
Do 448 dated 15-3-98

are forwarded, together with its enclosures, to the Deputy Commissioner of the Kadur District for submission of the entire proceedings connected with the case, together with a full report of the facts of the case, and on the points urged in the petition.

2. The petition with its enclosure should be returned.

2. The Dy Comm's attention is drawn to the vagueness and inadequacy of the reasons given by him in the endorsement issued by him

BANGALORE,
12/9/1898

By order,
for Secretary.

C2
7-9-98

7-9-98

REVENUE DEPARTMENT
Gl. No. 2234
SEP 26 1898
Pet 145
DEWAN'S OFFICE

1898 (5)

From

F. C. Carr, Esquire
Deputy Commissioner
Kadur District

To

The Secretary to Government
Revenue Department

Dated 19th
Despatched 21st September
Received

General No. 165 / 1898-99.
No.

Enclosure No. as per schedule hereto.

Reporting on the petition of Basilesiah of Sakleshpatna, in the Kadur District, appealing against the order of the Deputy Commissioner declining to appoint petitioner, Patel of Chakeri Kaval.

Rubd
LR 26-9-98
mdy.
29.9.98

I doubt if the Deputy Commissioner's Memo and the Petition enclosed should be transmitted to Secretary to Government Revenue Department

Dy 30/9/98

Submitted to Government with a note of Petitioner's application

Dy 4/10/98

Perusal
Sakleshpur
Basilesiah
Sons name
should be
considered
Shekar
alleged his
consent was
not asked
in the
ascertain this
point carefully
before
the order

Docketed
Reports
Sheriff Court
Dy 9/10/98
Draft
Sd/ 7.10.98

Pet N
26.9.98
28-9-98
28-9-98
Respectfully
AK
28/9/98

Chickmagalur, 9th September 98.

From

F. C. Carr, Esquire

Deputy Commissioner,

Kadur district.

To

The Secretary to Government

Genl. & Rev. Department.

Sir,

In reply to Government Official Memorandum No. Pol 241 dated 4th instant, forwarding for report petition of Malleriah of Kattepatna, appealing against the order of the then Deputy Commissioner declining to appoint him Patel of Gattheri Kawal village, Chickmagalur Taluk I have the honor to forward herewith in original the Extra Assistant Commissioner Mr. B. Rama Swami Iyengar's Memo and the then

No 36 6
1
36
4

Deputy Commissioner, Kádi Kádi requests
thereon, appointing one Bapu Naik
as Patel of the Kanal village on
probation for two years.

2 The petition with its enclosures
received with the above is herewith
returned, and the Vernacular
Correspondence is forwarded
for perusal and favour of return
when no longer required.

I have the honor to be,
Sir,
Your most obt. Servant

R. C. Lee
Deputy Commissioner,
Kadur District.

Asst.

(6)

1898

From

The Secretary to the
Government of Mysore,
Gen. & Rev. Depts.

L.R. 86-97-6

To The Registrar,
Chief Court of
Mysore

Dated 3d

Despatched 7th November '98

Received

General No. 3182 P.
P. No. 387.

Enclosure No.

Has the honour to
request that he will
be so good as to
forward a copy of
Judgment in Criminal
Revision Case No. 160
of 1884 on the file
of the Chief Court
of Mysore, as the
same is required for
reference in connection
with the appeal of
one Mallesh of
Srinarepatna in the
Kadur

Kadar Zalak, requesting decision of ~~before~~ the Government.

"By Order"

for Secretary.

C2
17-10-98

C.G.R.
2/11/98.

(General Serial No 30)

OFFICE OF THE 4177 1898
RECEIVED 17 NOV 98
GOVERNMENT OF MYSORE

From The Registrar of the Chief Court of Mysore

To The Secretary to the Govt. of Mysore

Dated 16th November 1898

Despatched 17th " } Criminal Side

Received

General No. 2746 } 189
No. 112

Enclosures No. 1.

Certified copy of Judgment in Criminal Revision Case No. 180 of 1898 on the file of the Chief Court of Mysore as requested.

LR 81-97

Subd 6. 2nd Counsel—
The Counsel was not
interfered with Temp—
the Sentence was reduced
the Asst Comm^r seems to
have taken this point
(viz reversal of Conviction
re granted

My 16/11/98

Get the other
Judgt. let
us know the
full circs of
the case which
resulted in
conviction
Mysore

18/11/98

Docketed the 8th instant
Persons Judge
My 18/11/98

Peon
Jud^t
12/11/98
Rd on 15/11/98 Rep-putup
16/11/98
Subd
19/11/98

Baptist.
19/11/98

Central Jail Press, Bangalore.—5-7-98.—3,221.

No. 2746 Encl
112

Bangalore, 30 November 1895.

From,

The Registrar of the
High Court of Mysore.

To,

The Secretary to the
Government of Mysore
General & Revenue Departments.

Sir,

As requested in your No. 3182 dated
the 30th instant, I have the honour to
forward herewith a copy of Judgment
in Criminal Revision Case No. 100 of 1894
on the file of this Court.

I have, &c. honour to be,
Sir,
Your most obedient Servant,

Registrar.

mlw

In the Chief Court of Nyasaland at Zomba
Friday the 25th day of January 1895

Present

H.C.G. Palmer, Esq: Chief Judge.
and
F.R.H. Thomas Esq: Judge

Revision Case No. 160 of 1894.

In the matter of the conviction of Bora Kaole and others, appellants in Criminal Appeal No. 31 of 1894 on the file of the Supreme Judge of Nyasa.

Judgment

The conviction cannot be interfered with by us on revision, but in case of opinion that the sentence is much too severe under the circumstances of the case, a fine would have satisfied the requirements of Justice. The accused have already undergone more than 2 months' imprisonment. We remit the remainder of the sentence and direct the immediate release of the accused. The fine imposed on 2nd and 3rd accused, if levied, should be refunded to them.

Copy
H.C.G. Palmer
Registrar.

Mlw

2 Drafts

189

From (8)

LR-86-97-8

To The District Magistrate
Kadur District

Dated 22.
Despatched 23rd Nov/98
Received
General No. 3439
P. No. 436

Enclosure No.

Has the honour to request that the District Magistrate will be so good as to forward to this office at an early date a copy of the judgment in Criminal Case No 21 of 1884 (in which one Bora Naika and 4 others were the accused) on the file of the General Assistant Commissioner-Magistrate of the District, as the same is required for reference in connection with the appeal of Mallaraja of Sakrepatna

in the Kodak Fabrik

By Order

Draft:

For Secretary.

S.V.

19/11/98

2 Drafts

189 (9)

From

L.R. 86-97-9

To The Sessions Judge
Nasik Division
Shirgaon.

Dated 22nd

Despatched 23rd March/98

Received

General No. 3440 P.
P. No. 437

Enclosure No.

Has the honour to request that a copy of the judgment in Criminal Appeal No. 31 of 1884 on the file of this court (Appellants, Bora Nadika and 4 others) may be forwarded to this office at an early date, as the same is required for reference in connection with the appeal of Malloraya of Sakharpatna in the Kadur Taluk.

By Order

For Secretary.

Draft

Dr 19/4/98

Sd.

Copy of judgment ~~&c~~ in Criml case No. 21 of 1884 has not yet been rec'd from the District Magistrate of Madura.

mdy
2/12/98

- Send reminder to D.M. Mg/E

Reminder sent 5/12/98

Reminder received 26-11-98. from Asst Mag. Madura.

AK
5/12/98

(General Serial No. 20/98)

REVENUE DEPARTMENT
No. 3457
NOV. 25 1898
SECRETARIAT DEPOSITORY

4577

1898. 2125

From The District & Sessions Judge
MAN OF MYS Nagar Dt

To The Secretary to the Government, General & Revenue Departments, Bangalore

Dated 25th November 1898

Despatched 25/11

Received

Enclosures No. 1

General No. 234 / 1898-99
No. —

Mis No. 34443 of the 437
22nd Instant.

Has the honour to forward herewith copy of judgment in Criminal appeal No. 31 of 1884 on the file of this Court as called for in the above

Assistant to Magistrate
District & Sessions Judge
Nagar Division

Petn M
Sent
28.11.98
Recd 29/11 AK
30/11/98

Reporter

In the Court of the Sessions Judge, Nasik Div.

Thursday the 25th day of November 1884

Present J. Nanabhai Rao Esq. B.A. LL.B.

Sessions Judge

Petition of criminal appeal No. 31 of 1884 against the conviction and Sentence by the Second Assistant Commissioner and 1st class Magistrate of the Kaira Dist. under Sections 147, 149 and 323 of the Indian Penal code in criminal case No. 21 of 1884 - - - - - -

Appellants
1. Bora Naik 2nd accused
2. Rama Naik 3rd accused
3. Nanajinak 4th accused
4. Appaya alias Appaji 5th accused
5. Yellavva 6th accused.

Judgment

The accused were charged 1st with rioting, 2nd with rioting being armed with deadly weapons and 3rd with causing hurt to Bidda and Potla Malla, offences punishable under Sections 147, 148, 149 and 323 of the Indian Penal Code.

2. The Magistrate found the accused guilty

guilty of the offence of rioting under Section 147 and causing hurt under Sections 149 and 323 of the Indian Penal Code and Sentenced the 1st appellant Bora Naik and 2nd appellant Rama Naik to Suffer rigorous imprisonment for one year and to pay a fine of Rs: 25/- each and in default to Suffer additional rigorous imprisonment for 3 months each, and the 3rd appellant Nanjunda, 4th appellant Appanna and 5th appellant Yellamma to Suffer rigorous imprisonment for 3 months each.

3. The grounds of appeal are:—

(1) The evidence for the Prosecution is not trustworthy. There are discrepancies and contradictions in the statements of the witnesses for prosecution.

(2) From the nature of the complaint itself it will appear that there has

has been a failure of justice in convicting the appellants alone under Section 147 of the Penal Code.

(3) The Lower Court erred in law in requiring the accused to answer to the questions put by the Court without recording all that the accused said and in omitting to call for and examine the public documents and other proofs cited by the 3rd accused.

(4) The Lower Court acted against equity in not examining all the witnesses cited by the accused and named in their depositions, and in stating in the judgment on the opinion of the Police that the accused had procured the witnesses' appearing

in

in Court.

(5) From the manner in which the Magistrate passed Sentence upon the accused very hastily with the view of disposing of the case himself (vide para 2 of the Judgment) it is clear that the accused could not have obtained justice in that Court. The Sentences passed by the Lower Courts are very Severe.

(6) The defence set up by the 5th accused has been clearly established. The reasons given for disbelieving the evidence adduced by the 5th accused are not Satisfactory

(7) It is highly improbable that, as believed by the Magistrate, the accused went to a village having Seventy houses and a population of 300 or 400, that

When

when there were people of other villages also present, the accused alone struck the witnesses and that the numerous remaining population remained quiet.

(8) This complaint has been instituted on account of the enmity that exists between Patnapere Narrappa a man of influence in Brahmiatanda and the 3rd accused. The other accused have been joined as co-prisoners to obviate the possibility of these being called as witnesses by the 3rd accused.

4. The following statement shows the witnesses that depose against each of the accused Appellants

The

The 2nd and 3rd accused — The 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 12th, and 13th witnesses for prosecution.

The 4th accused — The 2nd, 5th, 7th, 8th, 10th and 12th witnesses for prosecution.

The 5th accused — The 2nd, 3rd, 4th, 5th, 7th and 10th witness for prosecution.

The 6th accused — The 2nd, 4th, 5th, 7th, 10th, and 12th witness for prosecution.

---

5. The 1st witness is the Chief of the village in which the raiding took place.

6. It was the 3rd witness that was treated by the 2nd, 3rd and 5th accused. The 1st witness, the Hospital Assistant, who treated the 3rd witness, states the injuries which were on the person of the 3rd witness when he

was

was sent into the dispensary by the Police on the very next day after the occurrence.

4. The 6th witness was treated by the 2nd and 3rd accused. He was also treated by the 1st witness who speaks to the injuries on the person of the 6th witness on the very next day after the occurrence.

8 Excluding from consideration the evidence of the 11th witness for prosecution, who might possibly be supposed to be at ill-will with the 3rd accused on the ground that the latter gave evidence against the brother of the witness in another case, there remains the evidence of the other witnesses for prosecution

prosecution whom there is no reason to disbelieve.

9. The evidence on behalf of the prosecution proves that there is a dispute between the 1st accused and the 5th witness for prosecution about a garden in possession of the 5th witness; that the 1st accused executed a lease of the garden to the 2nd and 3rd accused a few days prior to the occurrence; and that, in order to terrify the 5th witness into giving up possession of the garden, the unlawful assembly and rioting were resorted to by the prisoners.

10. The guilt of the accused has been proved by abundant and satisfactory evidence. The

11. The 2nd, 3rd, 4th and 6th accused do not deny their presence in the village at the time of the occurrence. They all cited one set of witnesses whose whereabouts they confessed they did not know. I cannot say that, under the circumstances of the case, the Magistrate was wrong in refusing to adjourn the case again and to issue another Summons to witnesses whose whereabouts the accused could not give.

12. Even if the evidence of the witness examined by the 5th accused can be assumed to be reliable about his plea of alibi, the presence of the 5th accused with the rioters and his taking part in

in the past, to be seen and
to by the witnesses for prosecution,
are not inconsistent with his
presence in another village, distant
three miles from the scene of the
occurrence, between about 12 and
4 O'clock on the date of the
occurrence.

13. The conviction is affirmed
and the appeal is dismissed.

Dated the 25th November, 1884. Sd/- Nanabhai Haridas
Sessions Judge
Ahmedabad

A True Copy

Sessions Judge
Ahmedabad

(11)

GENERAL DEPARTMENT
Cl. No. 3543
C. S. 98
1898 Vol. 222
SECRETARIAT OFFICE

From The District Magistrate of Nadiad

To The Secretary to Govt General and Revenue depts

Dated 26th November

Despatched 1st Dec: 98

Received

General No. 273
No.

Enclosure No. 1.

With reference to his circular No 2430 dated 22nd instant Pet 436 I have the honour to forward herewith a copy of the judgment in Criminal Case No 21 of 1898 (accused Bomanji and others) on the file of the General Assistant Commissioner Magistrate, Nadiad Division

D. C. Lan
Dist. magistrate
of Nadiad

Submitted No 234 dt 25.11.98
from the District Judge, Nagar.

MMK
6/12/98

Office file
Vs 6/12/98

L.R. 86-97-11

Office file
is enclosed herein

7/12/98 MMK.

Subd to 2nd Counsellor

Dorabji who has been convicted of
by the Sessions, has come to
"rioting" & "causing hurt" &
Sentenced to 1 year's rigorous imprison-
ment & to pay a fine of Rs 25
The offence was committed in the
course of a private quarrel
about land. The Ch Court
was of opinion that a fine would
have been sufficient in a case of
this kind Vs 8/12/98

Draft Letter Vs 8/12/98

Rd 7 Dec.
9.12.98 Ent-d Cl Reg Dis Vs 10/12/98

His 14 yrs since the commission
of the offence. Even then the
Ch. remarked that a fine
would have sufficed. Under
all the circumstances of the case
I do not see any reason
to interfere in the exercise
of the discretion

Vs 10/12/98

Put up
5.12.98

Rect
5/12 Rect-put up.
MK
5/12/98.

In the Court of the General Assistant &
1st class magistrate of Badulla

Dated 7th November 1884.

Before B. Ramanathan Esquire
1st class magistrate.

Criminal Case No 21 of 1884.

Complainant vs	Accused
Government	1 Kattamah
	2 Bora ✓
	3 Rama
	4 Nanja
	5 Siriyegowda
	6 Yella

The complaint preferred by the Police against the accused was as follows. That the accused together with some others committed rioting armed with deadly weapons, and caused hurt to certain persons at Bramakanuda on the 16th day of October last, in broad day light.

2 The names of witnesses examined on behalf of the prosecution were:—

1 Ramaswami Nadu, 2 Siddele Gowda, 3 Putta mulla, 4 Muttanna, 5 Siddanamani Rama, 6 Siddi, 7 Nirianajja, 8 Javaregowda 9 Ranga 10 Chamanna, 11 Singanna, 12 Basava

13 Nuriyah.

and the exhibits filed were:-

A — A certificate granted by the Hospital Assistant at Wadiaveare Biddha who was alleged to have been hurt in the fight.

B — A similar certificate granted by the same Hospital Assistant another Patient alleged to have been hurt.

C — A stick stated to have been found in the hands of Rama 3rd accused at the time of fighting and with which he beat Lutta Mudla, 3rd witness for prosecution.

3. The charge framed was as follows:-

Firstly- that they the accused, on or about the 16th day of October 1934 at Baramanidiva village committed a riot with intent to terrify and annoy one Biddeshanami Rama and each of the villagers and thereby committed an offence punishable under Section 147 of the Indian Penal Code and within the cognizance of this Court.

Secondly — That they on or about the 16th day of October 1934 at Baramanidiva village committed rioting being

being armed with deadly weapons with the said intent, and thereby committed an offence punishable under Section 148 of the Indian Penal Code and within the cognizance of this Court.

Thirdly — That they on or about the 16th day of October 1884 at Bramanasamudra village in prosecution of the said object caused hurt to Bidia and Putta Mullal, and thereby committed an offence punishable under Sections 149 and 323 of the Indian Penal Code and within the cognizance of this Court.

4. All the 5 accused pleaded not guilty to all the 3 heads of the charge

5 The statements of the accused were as follows: —

1st accused Rajamah stated as follows —

A riot did take place on the said date (16th October 1884) at the said place (Bramasamudra). I did not take part in the riot. I did not see the rioters being armed with deadly weapons, such as sticks, guns swords &c. On the morning I was seated in the house of one Agasala Nanjappa; one Bamma Putta Mullal a cousin of Patel Madegowda of Bramma, died in — and Madegowda are not on good terms. After Putta Mullal died in, I came out

and I saw that about 10 or 15 men be-
longing to the Banmna Patel and
about 3 or 10 of Bukkaya belonging
to Patil mallegowda were seated in
the yard. They all told Letta muda
to beat me, if I came out. Hearing
this I was afraid and wrote a
petition to Sirur. By this time the
Banmna Nagaraj came there, and
I gave him the petition and
asked him to despatch it by tapal.
A galige after words I heard a noise
as people were running. I came out
and saw that no body were there.
Taking advantage of this opportunity
I got home, a galige after the
said people came towards my
house. Hence, I shut the door of my
house, they all came and stood
around my house and commenced
abusing me. I was afraid and kept
quiet. At last, about 11 o'clock in the after-
noon, 2nd accused Bora and 3rd accused
Ramna came near my house and
asked me to open the door. I told
that I was afraid of the Banmna
people. They told me "men in the
house, do not be afraid, open the
door". Hence opened the door and
came out. 2nd and 3rd accused asked
me to accompany them to the ganeu.

I declined to go, telling him that the garden has been the cause of all this. By this time that crowd came after me to beat. I ran to hide myself in one Lumma Enecio house. When I reached and ran through the chinks in the door 2nd and 3rd accused were standing against the door. The people of Bamum and others were abusing me. Abouba Galiga afterwards opened the door and asked the 2nd and 3rd accused to go and call one Dammanya. Dammanya then came and asked him to write for me a petition, he did so, then the 2nd and 3rd accused went away saying that they will go and drink water and come back. A galigé afterwards 2nd and 3rd accused came with a crowd of Bamum people abusing me to Lamma Enecio house where I was seated being afraid I sat inside Lamma Enecio house till evening, when a Police Officer came and told me "the Police Inspector wants you". I went to him. On hearing the arrival of Police Inspector, all the crowd disappeared. This is all I know and nothing else. There is a dispute between myself and Bidélahamani Rama about a garden. This is in my enjoyment for the last 2 years. As I had

to go to Kinaya in a certain case, I
leased it out to the 2nd accused Basa
and the 3rd accused Rama for 1000.
An account of this garden was village
Patil Siddegowda, one Thammanna
Biddahanumi Rama Basanna Patil
Mallegowda and Bukkaya Patel
Mallegowda are not in good terms
with me. I do not know who hurt
Bidda and Putta Mallaka (deceased)
never (previously). Hanumaiha
Kalli Adina, Appa, Ganneedasa and
Naga of the same village and Basana-
gamudra Thambhaya Lakkanaiya are
my enemies.

The 1st accused, states on the 6th question
as follows: —

I do not wish to examine my wit-
nesses.

2nd accused Basa stated ——

A fight did take place, but I did
not take part in it. We have taken
the lease of the disputed garden on
the 12th October last. A number of the 30
October people of Thammanamudra,
Basana and of Bukkagan, all about
30 in number, had assembled near
1st accused's House carry-
ing sticks, stones and sticks. And 3rd
accused Rama went to the 1st accused's
House and asked him to open the

door

door and he replied from inside that if he consent, crowd outside would beat him; meanwhile Patel Ajide Gowda, Lamanna, Lingamma called the crowd away, and soon after they went that side. 1st accused came out; seeing this, those people came in pursuit of him. 1st accused ran and hid himself in the house of one Lamma Shee. That crowd beat me and the 3rd accused Rama and we did not beat them; we were standing in front of Lamma Shee's house for sometime. 1st accused told us to call Lammanna to draw up a petition. Then the 3rd accused went and called Lammanna and afterwards went to drink water. In the evening, the Inspector came there and I presented a petition. I do not know whether Kadia and Patla Muliah (2nd and 3rd witnesses for prosecution) have received wounds. I wish to examine Gopenahalli Lamma, Biran, Muliyappa, Gullamaiha and Lammaiha as my witnesses. On the 15th instant the 2nd accused stated as follows — I do not know where my witness Lamma is; as I was suffering from headache I did not go to Chowdan to the Police to get the summons served on him. The said Lammanna had died

accused is for me, he incited Police arrest ed me. I do not know where my witnesses Limma naik and Jaikanik are and I do not know their native places. They were getting the road repaired near my village and I now hear that they have gone to Mudlavane. I do not know which is the Mudlavane.

3rd Witness Rama, sworn & states—

A riot did take place at Rama Sannudra village on the 15th October last. I and 2nd accused Rama went to Bramavannudra at noon on that 16th October. Some Kunchikars and Koleyaro of Bramavannudra and Ramun had collected in front of the 1st accused Vajramatti house carrying Tadapatte and sticks. I and the 2nd accused called out to the 1st accused to open the door and he said that he was afraid, and that he would not open the door. He afterwards told me to call some Lamanis to write for him a petition. We then went home and after the usual meal I went to the (1st accused) same. They all came running after us, we ran away and the 1st accused cut and hid

his house in the house of Somma Ere. I and the 2nd accused stood outside and afterwards went away to drink water. This is all we did. We did not commit, this. I cite Hogre-halli Simmanna, Siru mallaya, Guiianaik and Simmanaik, as our witnesses.

The 3rd accused stated on the 6th instant as follows:—

I do not know where is Simmanna Iwas here. I did not go to Chen-to the Police the witnesses in order to get summons served on them. I do not know where my witnesses Simmanaik, Guiianaik are; I hear they have gone to Sirtur side and are natives of Middle line.

4th accused Nanja, states as follows:

A riot did take place at Brama samudra on the 1st October last. I did not join the riot. I did not go to Bramasamudra on the day when the riot took place in company with the 2nd and 3rd accused. I had gone to that village before. I saw Bramasamudra, Banaru and Bukkagar people and the 2nd and 3rd accused quarrelling when I

was coming from the garden. Other
members of the crowd I knew and the 3rd
accused. They were about 50 in number
I stood and saw them at a distance
distance from them. I did not see
them carrying sticks. I did not go and
join the rioters. My witnesses are
Nagrahalli Timmanna, Timmappa Malli-
yappa and Pradeep Rajaiah Ujjellaiah
and Timmaraik. I do not know
to what place the witnesses belong
and where they are now.

5th accused Siddegowda, states
as follows: ——— I was not at Biana
pamudra on the day the riot took
place there. At about 9 or 10 o'clock
in the morning Patel Naiegowda
Salvan Hanumia, Girijee Lakkia Tam-
maiana Timma and I went to Dillen-
halli; the Inspector had reached;
as soon as I reached that place
I got a headache and cold. I did not
go to place there. I did not see the
Inspector. I came to Bramasamudra
in the evening. The Inspector, saw
me and told me to call the Patel. I
directed another and he brought them.
I went to examine Girija Lakkia, Tam-
maiana Timma, Agasara Mulla, Sal-
var Hanuma, Police Pera Menesha

as my witnesses. Pellenalli is about a distance of about 3 miles from my village. Bramaramudra is at a distance of about 5 miles from Pellenalli.

6th accused Jella, stated as follows: — I was at Bramaramudra on the day, when the riot took place. I had gone to bring oranges. Some 7 or 8 of Bramaramudra people and 7 or 8 of Bukkisagar people and 4 or 5 of Ramuru people were beating the 2nd and 3rd accused. I was standing and seeing this at a small distance from them. I did not join the riot. My witnesses are Mead contractors Gollanaik, Timmanaik, Pagrenalli Timmanna and Timma Mallayya. I do not know to what town or country they belong.

6. 1st accused Thatiannah did not wish to examine the witnesses cited by him.

2nd accused Bora, 3rd accused Rama, 4th accused Nanja and the 5th accused Jella examined only one witness Mallayya of Pariki for their defence. The whereabouts of the other witnesses not being known were dispensed with.

5th accused Kikkeyanda examined 5 witnesses namely — 1-Gireje Lakka, 2-Samaira Simma, 3 Mulla, 4 Hamma, 5 Police Boy Mucha.

No exhibits were filed for the defence.

Judgment.

All the accused admit that a meeting did take place at Bamasamudra on the 16th October last. The only question is who committed the murder, whether all or any of the accused committed it, or whether, as alleged by some of the accused, certain persons belonging to Basavanamudra Bamma and Nukkagan committed it, there is any satisfactory ground by the evidence for the prosecution that all the accused committed the murder, and the probabilities of the case go to support the truth of that evidence. There is no likelihood that the Bamma and Nukkagan people would commit such a grave offence as this meeting without a sufficient motive for it, whereas the 1st, 2nd and 3rd accused had a strong motive for committing the offence. The 1st accused claims to have purchased the disputed garden, about which this murder took place, and the 2nd and 3rd

accused

accused admit that they have obtained a lease of that garden from the 1st accused. The former owner of the garden was one Samanni, from whom Bidéahannii Rama (5th witness for prosecution) purchased it. The 1st accused also claims to have purchased that garden from the same woman; and thus a dispute exists about it between the said Bidéahannii Rama and the 1st accused Muniranah. The 2nd and 3rd accused, under the pretext that the 1st accused had leased the garden to them, have taken the most prominent part in the riot, the 4th, 5th, and 6th accused being led on to the crime by the 2nd and 3rd accused.

2. The 2nd and 3rd accused as well as the 4th and 6th accused stated that instead of the 2nd and 3rd accused committing the riot and beating the Bannur men, they (the 2nd and 3rd accused) themselves were beaten by some 30 men belonging to Bannur, Bukkagar and Bramasamudra. If this be so, it is very strange that neither the 2nd nor the 3rd accused was in the least hurt by these

30 men, whereas the evidence for the prosecution, including the medical evidence, showed that the men who were hurt were, (1) Bidda, the Helper servant of Biddhamani Deuta (the opponent of the 1st accused in the gamble dispute) and (2) Patta Mulia, one of the Banian men who had come at the invitation of the Patel of Bhamanmunda to give the fish. It is extremely improbable that two-thirds, two men, namely, the 2nd and 3rd accused, as many as 30 persons had been attacked, and it is wholly incredible that having been attacked by all the 30 men in question, the 2nd and 3rd accused came away unhurt. The story of the 2nd, 3rd, 4th and 5th accused is altogether improbable, whereas the account given by the prosecution witnesses is quite consistent with probability.

3. The 1st accused made a most rambling statement, denying that he took any part in the fish and trying to exculpate his friends the 2nd and 3rd accused also. He cited 4 witnesses, but he said he would not wish to examine them, for, because

best

seen, known to himself. The 2nd, 3rd, 4th
and 6th accused solicited the same
witnesses, but only one was served
with summons, and the Police Inspector
or reports that he and his
subordinate officials could go and
serve the summonses on the other
witnesses, the 2nd accused had gone
and sent away these witnesses some
where so as to render the service
of summons on them impossible.
The reason assigned for the conduct
of the said accused is that having
heard of my transfer from this
District, they chose to settle the case
transferred to some other Court, and
the case tried again so that they
might profit by the change in
some way or another. Anticipating
some such device on the part of
the accused, I had directed them
all to send all their witnesses
to the Police after serving the sum-
monses; but the 2nd, 3rd, 4th and 6th
accused failed to obey. Even now,
when asked to state where these
witnesses are, and which is their
native place, the said accused
profess total ignorance as to the
whereabouts of their witnesses. The
4th and 6th accused even went so far
as to say that they did not know

to what in charge or to what accessory
this accused witnesses belonged. Under
these circumstances, I thought it, when
made aware of time to postpone the hearing
of the case any further, and did so -
proceed with the witnesses in question.
Only one witness was examined on
behalf of the said
accused, namely, Mallinja Jali; but
his evidence I must say is of no
great value. He says that about
a month and a half ago he lent
bull-calf and during the course
of his yearning for it, he arrived
at Bamavanneedia on the very day
on which the first accused alone, and
that he saw about 30 men attack
the 2nd and 3rd accused, and that although
he was only a fathom's distance -
from the 2nd and 3rd accused when
they were beaten, yet that he did
not see whether they were hurt or not.
This, to say the least, is very strange
indeed.

4. The 5th accused pleaded an alibi
and examined 5 witnesses. The last
witness cited is a Police Peon, whose
evidence goes to prove nothing in
favor of the 5th accused. The remain-
ing 4 witnesses say that on the day
the first accused at Bamavanneedia,

they

they and the 5th accused left their village of Bamun at about midday and went to Pillimalli where they remained till 4 o'clock in the afternoon, and that then they all returned to their village. This however is opposed to the statement of the 5th accused himself who says that from Pillimalli he did not go back to his village of Bamun but went with the Inspector to Branasamudra where the Inspector asked him (the 5th accused) to go and call the Patel of that village, which he did and that he (the 5th accused) told someone else to go and call the Patel. Bearing this discrepancy in mind, I cannot believe the evidence of the witnesses examined by the 5th accused.

5. The conclusion at which I have arrived after carefully weighing the evidence on both sides, is that all the accused participated in the commission of the riot with which they have been charged. I therefore find them all guilty under the first head of the charge.

6. As regards the question whether the riot was committed by the accused while they were all armed with deadly weapons, it appears

to me from the evidence for the Pro-
secution that although when the ac-
cused first came into the village,
some of them were armed
with guns and swords, yet towards
the close of the day, when Rutta Mulla
(3rd witness for Prosecution) met o
beaten near the house of Ramdeen
Amirchan Rangamati, each of them
pistols were had armed and guns,
and lathy and fled into their
houses, had gone away, and that
those that remained had only sticks
in their hands. It is not satisfac-
torily proved that the accused met
before the Court had gone armed
in their hands, and I give them the
benefit of my doubt, regarding the 2nd
heads of the charge against them.

On the 3rd head of the charge,
I must find all the accused guilty,
as I have no doubt from the evidence
for the Prosecution that when both
Bridges (5 witness for Prosecution)
and Rutta Mullah (3rd witness) were
beaten and hurt by the pistols, all
the accused were present, though the
2nd and 3rd accused took a prominent
part in beating them.

5. Now as regards the punish-

ment

ment to be awarded to the accused. I think that except the 2nd and 3rd accused, who have been proved to be ringleaders of the riot, the other accused deserve a somewhat light punishment. Considering the social position of the 1st accused, who is alleged to have been a favourite in the Palace in the days of the old Maharajah, I think a heavy fine will meet the ends of justice in his case.

9. Finding and sentence.

The Court finds that the 1st accused Najjiammal, the 2nd accused Rosa, the 3rd accused Rama, the 4th accused Nanja, the 5th accused Lingaswamy and the 6th accused Jeeva are guilty of the offence specified in the first head of the charge namely that they have committed the offence of rioting and have thereby committed an offence punishable under section 147 of the Indian Penal Code; and the Court further finds that the said accused persons are also guilty of the offence specified in the 3rd head of the charge namely, that they have committed the offence of hurt and have thereby committed an offence

punishable under sections 19 and
323 of the Indian Penal Code and
the Court directed that the 1st accused
shall be sentenced to undergo
five years rigorous imprisonment for 3 months;
that the 2nd accused Bava and the 3rd
accused Rama be sentenced to undergo
rigorous imprisonment for 1 year and
pay a fine of Rs 20 each, or in default
suffer additional rigorous imprison-
ment for 3 months each; and that the
4th accused Manja, the 5th accused
Kuppegowda and the 6th accused Gella
be sentenced to undergo rigorous
imprisonment for 3 months each.

The Court further finds that the said
10 accused persons are not guilty
of the offence specified in the 2nd head
of the charge, namely that they have
committed the offence of rioting armed
with deadly weapons and that they have
thereby committed an offence falling
under Sec. 148 of the I.P. Code and the
Court directs that the said accused
be and are hereby acquitted on the
2nd head of the charge.

Sd/- B. Siddalingaiah
1st class Magistrate

Copy

R. Chandra
Assistant Magistrate
of Bhadravathi

Asst

Dinesh

Jain Sons

P. G.

Mr. Jain

X

16-12-98

(12)

Re: 1278/ OF 48-98 dt. 16-12-98

Copy of the above cited is forwarded to the Deputy Commissioner, Kasaragod District for information and necessary action together with the Particulars received with his letter No. 65/B1/98 dt. 13-7-98.

S. O.

for Secy

16-12-98